

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of ANTHONY M. ENNAS and U.S. POSTAL SERVICE,  
POST OFFICE, Brooklyn, N.Y.

*Docket No. 96-1112; Submitted on the Record;  
Issued December 11, 1998*

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DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,  
BRADLEY T. KNOTT

The issue is whether appellant sustained an emotional condition in the performance of duty causally related to compensable factors of his federal employment.

On March 21, 1974 and March 29, 1976 appellant suffered injuries to his lower back in the course of his federal employment. The Office of Workers' Compensation Programs subsequently accepted the claims for a lumbosacral sprain and strain.

On July 31 and August 5, 1985 Dr. Philip A. Barenfeld, a Board-certified orthopedic surgeon, treating appellant for his back condition, indicated that a psychiatric evaluation revealed an anxiety reaction with features of depression and borderline type of personality pattern disturbance. He indicated that it was felt appellant was totally disabled on psychiatric grounds.

On February 5, 1986 Dr. Barenfeld indicated that another physician stated appellant's symptoms were strictly psychogenic. On March 11, 1987 Dr. Barenfeld stated that appellant was emotional upset and required a psychiatric consultation.

Pursuant to the Office's request, appellant was examined by Dr. Jacob I. Sage, a Board-certified neurologist and psychiatrist, on August 12, 1985. Dr. Sage stated that the only objective finding for appellant's back pain was some mild paraspinal muscle spasm. He found that there was a functional overlay to appellant's back complaints and that appellant's disability was mostly due to that component. Dr. Sage stated that appellant had a great deal of anxiety and that he was severely depressed over the situation. He indicated that appellant could probably not return to work without psychotherapy.

On September 18, 1989 Dr. Silvia V. Wilson, a Board-certified neurologist and psychiatrist, conducted a neurological examination. She stated that appellant suffered back pain,

but that there was a psychiatric overlay to his symptoms which probably were a major reason for his inability to return to work.

On December 28, 1989 Dr. John R. Motley, a Board-certified neurologist and psychiatrist, indicated that he conducted a psychiatric evaluation on August 28, 1989. He indicated that appellant had a possible adjustment disorder, secondary to chronic back pain and disability, manifesting itself with anxiety and depression. Dr. Motley further found that malingering could not be ruled out because the complaints of pain were not justified by the objective evidence. He stated that he could make no diagnoses pertaining to the March 21, 1974 accepted injury and that no psychiatric injury was demonstrated. Finally, he concluded that appellant was not psychiatrically disabled as a result of the March 21, 1974 accident.

On August 30, 1989 Dr. Alberto A. Velez, a Board-certified orthopedic surgeon, examined appellant and diagnosed chronic low back syndrome with functional overlay. He found that appellant was not totally disabled and should be able to return to some type of work.

On April 17, 1991 Dr. Barenfeld indicated that appellant suffered from emotional stress requiring psychiatric treatment. Dr. Barenfeld subsequently indicated that appellant required psychiatric treatment on June 26, July 10 and July 24, 1991. On April 27, 1992 he indicated that appellant remained depressed and emotionally upset. He requested a psychiatric evaluation on June 26, 1992 and found appellant emotional disturbed on July 20, 1992. Dr. Barenfeld noted that appellant was tense and easily angered or upset on November 30, 1992. He noted emotional problems on January 29, 1993. On May 5, 1994 Dr. Barenfeld indicated that appellant's emotional problems were causally related to his physical problem involving his back pain. He found appellant emotional distraught on May 19, 1994 and on July 7, 1994. On July 20, 1994 Dr. Barenfeld stated that appellant was developing severe depression because of constant pain and stress. He stated that there was no doubt that the psychological problems were related to the trauma sustained to his back. Dr. Barenfeld repeated this conclusion on August 2, 1994.

On September 22, 1994 Dr. Sudharam Idupuganti, a Board-certified psychiatrist, diagnosed chronic dysthymic disorder, post-traumatic stress disorder, and the beginnings of a major depression, single episode.

In a decision dated October 14, 1994, the Office declined to authorize psychiatric treatment because Dr. Idupuganti's report failed to address whether appellant's psychiatric condition was caused by his employment injury.

On November 15, 1994 Dr. Idupuganti stated that appellant's psychiatric condition was precipitated by his back injury in 1974 and exacerbated by his injury in 1976. Dr. Idupuganti, therefore, found that the psychiatric condition was a consequential injury as a result of the initial injury.

Dr. Barenfeld continued to submit progress reports diagnosing emotional problems and requesting psychiatric treatment.

On December 19, 1994 appellant requested reconsideration.

Dr. Barenfeld submitted additional progress reports noting emotional problems and requested psychiatric treatment.

By decision dated March 6, 1995, the Office reviewed the merits of the claim and denied modification inasmuch as the evidence failed to establish that appellant suffered an emotional condition causally related to his accepted employment injuries.

The Board finds that appellant failed to establish that the alleged emotional condition for which he claims compensation was caused or adversely affected by factors of his federal employment.

The initial question presented in an emotional condition claim is whether appellant has alleged and substantiated compensable factors of employment as contributing to his condition. Workers' compensation law does not apply to each and every injury or illness that is somehow related to an employee's employment. There are situations where an injury or illness has some connection with the employment but nevertheless does not come within the coverage of workers' compensation. These injuries occur in the course of the employment and have some kind of causal connection with it but nevertheless are not covered because they are found not to have arisen out of the employment. Disability is not covered where it results from an employee's frustration over not being permitted to work in a particular environment or to hold a particular position, or secure a promotion. On the other hand, where disability results from an employee's emotional reaction to his regular or specially assigned work duties or to a requirement imposed by the employment, the disability comes within the coverage of the Federal Employees' Compensation Act.<sup>1</sup>

Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that the condition for which he claims compensation was caused or adversely affected by factors of his federal employment.<sup>2</sup> To establish his claim that he sustained an emotional condition in the performance of duty, appellant must submit: (1) factual evidence identifying employment factors or incidents alleged to have caused or contributed to his condition; (2) medical evidence establishing that he has an emotional or psychiatric disorder; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to his emotional condition.<sup>3</sup>

In the present case, appellant submitted medical evidence establishing that he experienced emotional problems as a result of his accepted employment injuries he received in 1974 and 1976. Because the Office accepted that appellant suffered these back injuries in 1974 and 1976, appellant has established a compensable factor of employment.

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<sup>1</sup> *Lillian Cutler*, 28 ECAB 125 (1976).

<sup>2</sup> *Pamela R. Rice*, 38 ECAB 838 (1987).

<sup>3</sup> *See Donna Faye Cardwell*, 41 ECAB 730 (1990).

Appellant's treating physician, Dr. Barenfeld, a Board-certified orthopedic surgeon, diagnosed emotional problems, emotional stress and severe depression. Dr. Sage, a Board-certified neurologist and psychiatrist, diagnosed severe depression and anxiety. Dr. Wilson, a Board-certified neurologist and psychiatrist, found that appellant suffered back pain, but that there was a psychiatric overlay to his symptoms which probably were a major reason for his inability to return to work. Dr. Motley, a Board-certified neurologist and psychiatrist, diagnosed anxiety and depression. Dr. Velez, a Board-certified orthopedic surgeon, found that there was a functional overlay. Dr. Idupuganti diagnosed chronic dysthymic disorder, post-traumatic stress disorder, and the beginnings of a major depression, single episode.

The record, however, is devoid of sufficient rationalized medical opinion evidence addressing whether the identified compensable employment factors caused or contributed to his emotional condition. Drs. Barenfeld and Idupuganti both attributed appellant's emotional condition to the back injuries appellant sustained in 1974 and 1976. Dr. Barenfeld indicated that there was no doubt that the psychological problems were related to the trauma sustained to appellant's back. Dr. Idupuganti stated that appellant's psychiatric condition was precipitated by his back injury in 1974 and exacerbated by his injury in 1976. He, therefore, found that the psychiatric condition was a consequential injury as a result of the initial injury. However, neither physician provided medical rationale explaining their conclusion on causal relationship and, therefore, their opinions are entitled to little weight.<sup>4</sup> Moreover, the record is devoid of any other medical opinion evidence relating appellant's alleged emotional condition to his employment. Consequently, because appellant has failed to provide sufficient rationalized medical evidence establishing that his emotional condition was related to established compensable factors of employment, he has failed to meet his burden of proof.<sup>5</sup>

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<sup>4</sup> See *Nicolea Bruso*, 33 ECAB 1138 (1982).

<sup>5</sup> See *Donna Faye Cardwell*, *supra* note 3.

The decision of the Office of Workers' Compensation Programs dated March 6, 1995 is hereby affirmed.

Dated, Washington, D.C.  
December 11, 1998

Michael J. Walsh  
Chairman

Michael E. Groom  
Alternate Member

Bradley T. Knott  
Alternate Member